



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

**Caption in Compliance with D.N.J. LBR 9004-2(c)**

DAMIEN N. TANCREDI, ESQ. (DNT 1383)  
FLASTER/GREENBERG P.C.

Commerce Center  
1810 Chapel Avenue West  
Cherry Hill, NJ 08002-4609  
(856) 661-2280  
Counsel for Debtors in Possession

Order Filed on November 12, 2020  
by Clerk  
U.S. Bankruptcy Court  
District of New Jersey

In Re:

SMS ENTERPRISES, INC. *et al.*,

Debtors.

Honorable Andrew B. Altenburg, Jr.

Chapter: 11

Bankr. No.: 19-21332 (ABA) (Jointly  
Administered)

Hearing Date: November 10, 2020

**ORDER GRANTING DEBTORS' MOTION TO DISMISS**

The relief set forth on the following page, numbered two (2) to four (4), is hereby ORDERED.

**DATED: November 12, 2020**

A handwritten signature of Honorable Andrew B. Altenburg, Jr. in black ink, consisting of stylized initials and a surname.

Honorable Andrew B. Altenburg, Jr.  
United States Bankruptcy Court

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Debtor: SMS ENTERPRISES, INC. *et al.*

Case No.: 19-21332 (JNP)

**ORDER GRANTING DEBTORS' MOTION TO DISMISS**

Upon Consideration of the Debtors' Motion<sup>1</sup> to Dismiss; and it appears that the Court has jurisdiction over this matter; and for good cause shown it is ORDERED;

1. The Motion is GRANTED to the extent set forth herein.
2. The Debtors cases are hereby dismissed, effective November 13, 2020.
3. The Debtors shall file all outstanding monthly operating reports with the Court including September 2020 and October 2020, provide disbursement information for November 2020 to the Office of the United States Trustee and are authorized and directed to pay all statutory quarterly fees to the Office of the United States Trustee within 15 days of the entry of this Order (the "US Trustee Fees"). Such funds in the estimated amounts of \$7,255.43, \$3,631.32 and \$975 are being held by Flaster/Greenberg, P.C. in its attorney trust account and shall not be used to fund any Administrative Expenses, Reserves, the NJ Payment or the OnDeck Payment. To the extent the estimated amounts are more than set forth above, the Debtors shall make sure that sufficient funds will be set aside to fund the US Trustee Fees. To the extent the Debtors fail to file monthly operating reports, fail to provide disbursement information, and fail to pay US Trustee Fees, the cases can be reopened and converted to chapter 7 cases *nunc pro tunc* to the date this Order is entered upon submission of a certificate of default by the United States Trustee, by and through counsel, on five business (5) days' notice to the Debtors and the Debtors' counsel, without the need for filing a separate motion to reopen the case. The Debtors consent to the reopening of these cases and conversion to chapter 7 pursuant to these procedures.

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<sup>1</sup> Unless otherwise defined herein, all capitalized terms shall have the meanings ascribed to them in the Motion.

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Debtor: SMS ENTERPRISES, INC. *et al.*

Case No.: 19-21332 (JNP)

**ORDER GRANTING DEBTORS' MOTION TO DISMISS**

4. The Debtors are authorized and directed to pay all administrative expenses due to the Debtors' professionals, Flaster/Greenberg, P.C. and WithumSmith+Brown, P.C. that have or will be approved by order of this Court (the "Administrative Expenses").

5. The Debtors are authorized to pay the amount of \$19,000.00 in trust to Flaster/Greenberg, P.C. to be allocated in the following matter: (i) \$5,000 to be used in legal fees and expenses payable to Flaster/Greenberg, P.C. in order to wind up these cases and file appropriate dissolution proceedings; and (ii) \$14,000.00 to be used in fees and expenses payable to WithumSmith+Brown, P.C. in order to file any remaining monthly operating reports, tax returns, and other documents needed to effectuate the dissolution of the Debtors (the "Reserves"). The fees and expenses described in this paragraph shall be payable to Flaster/Greenberg, P.C. and WithumSmith+Brown, P.C. without further order of the Court. To the extent funds remain from the Reserves, such funds shall be used to fund the other claims included in this Order.

6. The Debtors are authorized and directed to pay the State of New Jersey on account of its priority tax claim to the extent such funds remain in the Debtors' estates following payment of administrative expenses and US Trustee Fees (the "NJ Claims").

7. The Debtors are authorized and directed to pay OnDeck Capital, Inc. any funds remaining in the Debtors' estates after the payment of the Administrative Expenses, the Reserves, and the US Trustee Fees (the "OnDeck Payment").

8. The Debtors are authorized and directed to pay the Administrative Expenses, the Reserve, the NJ Payments, and the OnDeck Payment, on or before December 31, 2020, and

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ORDER GRANTING DEBTORS' MOTION TO DISMISS

shall file a certification with the Court confirming that the Administrative Expenses, the US

Trustee Fees, the Reserve, the NJ Payments, and the OnDeck Payment are made.

9. The Court retains jurisdiction to adjudicate any dispute arising from this Order.

In re:  
SMS Enterprises Inc.  
Debtor(s)

Case No. 19-21332-ABA  
Chapter 11

District/off: 0312-1  
Date Rcvd: Nov 12, 2020

User: admin  
Form ID: pdf903

Page 1 of 2  
Total Noticed: 2

The following symbols are used throughout this certificate:

**Symbol      Definition**

- + Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

**Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Nov 14, 2020:**

<b>Recip ID</b>	<b>Recipient Name and Address</b>
db	+ SMS Enterprises Inc., P.O. Box 588, Marlton, NJ 08053-0588
aty	+ Flaster/Greenberg P.C., Commerce Centr, 1810 Chapel Avenue West, Third Floor, Cherry Hill, NJ 08002-4606

TOTAL: 2

**Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.**

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

## NOTICE CERTIFICATION

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

**Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.**

Date: Nov 14, 2020

Signature: /s/Joseph Speetjens

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## CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on November 12, 2020 at the address(es) listed below:

<b>Name</b>	<b>Email Address</b>
Damien Nicholas Tancredi	on behalf of Debtor ETA Enterprises Inc. damien.tancredi@flastergreenberg.com, damien.tancredi@ecf.inforuptcy.com
Damien Nicholas Tancredi	on behalf of Debtor SPS Enterprises Inc. damien.tancredi@flastergreenberg.com, damien.tancredi@ecf.inforuptcy.com
Damien Nicholas Tancredi	on behalf of Accountant Michael Yarrow damien.tancredi@flastergreenberg.com damien.tancredi@ecf.inforuptcy.com
Damien Nicholas Tancredi	on behalf of Debtor SMS Enterprises Inc. damien.tancredi@flastergreenberg.com damien.tancredi@ecf.inforuptcy.com
Daniel P. Bernstein	on behalf of Creditor Covenant Bank d.p.bernstein1@gmail.com
David Banks	

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Date Rcvd: Nov 12, 2020

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Total Noticed: 2

on behalf of Creditor Covenant Bank bbwlaw@yahoo.com

Denise E. Carlon

on behalf of Creditor Toyota Lease Trust dcarlon@kmllawgroup.com bkgroup@kmllawgroup.com

E. Richard Dressel

on behalf of Debtor SMS Enterprises Inc. rdressel@lexnovalaw.com

E. Richard Dressel

on behalf of Debtor SPS Enterprises Inc. rdressel@lexnovalaw.com

E. Richard Dressel

on behalf of Debtor ETA Enterprises Inc. rdressel@lexnovalaw.com

Gavin Stewart

on behalf of Creditor Toyota Motor Credit Corporation as servicer for Toyota Lease Trust bk@stewartlegalgroup.com

Gavin Stewart

on behalf of Creditor Toyota Lease Trust bk@stewartlegalgroup.com

Jay B Feldman

on behalf of Creditor Gary Peart jay@leighton-law.com anna@leighton-law.com

Jeffrey M. Sponder

on behalf of U.S. Trustee U.S. Trustee jeffrey.m.sponder@usdoj.gov jeffrey.m.sponder@usdoj.gov

Jeffrey M. Sponder

on behalf of Debtor SPS Enterprises Inc. jeffrey.m.sponder@usdoj.gov, jeffrey.m.sponder@usdoj.gov

Jeffrey N. Medio

on behalf of Creditor Vineland Municipal Utilities jmedio@mediolawfirm.com

Judith Carol Arnold

on behalf of Creditor Buena Realty LLC f/k/a Mr. and Mrs. John Caselli jarnold@grucciopepper.com, jmorvay@grucciopepper.com

Judith Carol Arnold

on behalf of Creditor Maintree Shopping Center L.P., Landlord jarnold@grucciopepper.com, jmorvay@grucciopepper.com

Julie M. Murphy

on behalf of Creditor Maintree Shopping Center L.P. jmmurphy@stradley.com

Kevin Joseph Bloom

on behalf of Creditor Maines Paper & Food Inc. kbloom@hhk.com

Paul W. Verner

on behalf of Debtor ETA Enterprises Inc. pwerner@vernerlaw.com

Paul W. Verner

on behalf of Debtor SPS Enterprises Inc. pwerner@vernerlaw.com

Paul W. Verner

on behalf of Attorney Paul William Verner pwerner@vernerlaw.com

Raymond M. Patella

on behalf of Interested Party Cape Atlantic Food Services LLC rpatella@kraemerburns.com

Richard J. Gerace

on behalf of Debtor SMS Enterprises Inc. rgerace14@comcast.net

Stephen McNally

on behalf of Attorney Buena Realty LLC f/k/a Mr. and Mrs. John Caselli smcnally@cmsfirm.com, lburgo@cmsfirm.com;jlong@cmsfirm.com;pbellino@cmsfirm.com

Stephen McNally

on behalf of Creditor Buena Realty LLC f/k/a Mr. and Mrs. John Caselli smcnally@cmsfirm.com, lburgo@cmsfirm.com;jlong@cmsfirm.com;pbellino@cmsfirm.com

Thomas R. Dominczyk

on behalf of Creditor Fox Capital Group Inc. tdominczyk@mauricewutscher.com, thomas-dominczyk-5025@ecf.pacerpro.com

U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

TOTAL: 29